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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>HB262/HGEICS/aHAFC</u>	Sponsor	<u>HGEIC</u>
Tracking Number	<u>.224982.2</u>	Committee Referrals	<u>HGEIC/HAFC</u>
Short Title	<u>Transfer Connect NM Grant Program</u>		
Analyst	<u>Bedeaux</u>	Original Date	<u>2/28/23</u>
		Last Updated	<u>3/3/23</u>

BILL SUMMARY

Synopsis of House Appropriations and Finance Committee Amendment

The House Appropriations and Finance Committee Amendment to the House Government, Elections, and Indian Affairs Committee Substitute for House Bill 262 (HB262/HGEICS/aHAFC) ensures that money in the connect New Mexico fund is subject to appropriation by the legislature for the purposes of administering the broadband grant program, and that disbursements from the fund shall be made upon warrants drawn by the secretary of the Department of Finance and Administration (DFA) pursuant to vouchers signed by the chair of the Connect New Mexico council.

Synopsis of Original Bill

The House Government, Elections, and Indian Affairs Committee Substitute for House Bill 262 (HB262/HGEICS) transfers oversight of the Connect New Mexico grant program and administration of the Connect New Mexico fund from the Connect New Mexico Council and the Department of Information Technology (DoIT) to the Office of Broadband Access and Expansion (OBAE). The Connect New Mexico Council will provide recommendations to OBAE regarding coordination of broadband programs and broadband grant awards.

HB262/HGEICS gives OBAE the authority to issue broadband grants to private internet service providers (ISPs), primarily for residential purposes. Applications for grants to private ISPs shall include the amount of matching funds the ISP plans to contribute, the number of existing residences which the grant would provide internet connectivity, and the extent to which the project fosters digital equity.

The bill provides new definitions for “broadband office” and “internet” within the Connect New Mexico Act, [Sections 63-9K-1 through 63-9K-7, NMSA 1978](#). Compared to the original bill, the substitute bill also adds new definitions for “broadband infrastructure,” “end user,” “underserved,” and “unserved.”

This analysis focuses on the bill’s impact on New Mexico public schools and students.

FISCAL IMPACT

HB262/HGEICS/aHAFC does not contain an appropriation.

SUBSTANTIVE ISSUES

Laws 2021, Chapter 120 created the Connect New Mexico Act, and established the Connect New Mexico Council, a cooperative interagency council with representation from the many state agencies to oversee the state's work in broadband. Under current law, the council is tasked with issuing broadband grants to state agencies, local governments, public educational institutions, tribal governments, and other entities created by a joint powers agreement. HB262 would transfer this responsibility to OBAE.

OBAE, also created in 2021, is an office administratively attached to DoIT. Since its creation in 2021, OBAE has worked to coordinate broadband mapping, statewide planning, engagement with tribal governments, and capacity-building statewide. The Connect New Mexico pilot program collected grant applications in three waves; one ended September 23, 2022, the second ended December 9, 2022 and the third is currently open and closing February 27, 2023.

OBAE has successfully managed grants from other sources, awarding several applicants funding for the U.S. Department of Agriculture's Reconnect Program, grants from the New Mexico Broadband Collective's broadband equity fund, and awards for the Tribal Broadband Connectivity Program. According to OBAE's [2022 annual report](#), the office managed grants totaling just under \$100 million in 2021 and 2022. If HB262/HGEICS/aHAFC is enacted, grants made pursuant to the Connect New Mexico program will need to be awarded by the Connect New Mexico council, and vouchers will need to be signed by the chair of the council.

HB262/HGEICS/aHAFC may contribute to ongoing efforts to consolidate the state's broadband expertise at OBAE. Independent of HB262/HGEICS/aHAFC, the Public School Facilities Authority (PSFA) is also participating negotiations to transfer broadband staff from PSFA to OBAE. This consolidation may help streamline the implementation of New Mexico's statewide education network (SEN). PSFA, OBAE, and other broadband stakeholders have begun planning for the construction of the SEN by identifying regional network nodes in Albuquerque, Las Cruces, Gallup, Farmington, Santa Fe, and Las Vegas to provide the backbone of the network. Staff have also identified a set of 25 to 30 schools to serve as pilot schools for the SEN, followed by an expansion to an additional 40 schools in phase 2, and finally a full statewide implementation planned for phase 3 as early as 2024.

In addition to improving school-based connectivity via the SEN, HB262/HGEICS/aHAFC may help connect students with no internet or insufficient internet access at home. During the Covid-19 pandemic, access to the internet became synonymous with access to education. While New Mexico deployed a host of temporary solutions, including public access points and district-owned hotspots, many families remain without access to a reliable high-speed internet connection. In a presentation to LESC in December, 2022, OBAE and PSFA explained the extent of disconnected students may be greater than current data indicates. Maps relied upon by the Federal Communications Commission (FCC) to make federal broadband grants failed to identify many disconnected rural and tribal New Mexico homes.

By allowing private ISPs to submit applications for broadband grants, HB262/HGEICS/aHAFC offers companies a means to make rural and tribal broadband projects cost effective. If the state is

able to offset the high initial cost of broadband projects, ISPs may be able to afford to invest in connecting disconnected residences, especially with the promise of new customers and increased future returns on their investment.

ADMINISTRATIVE IMPLICATIONS

Analysis from DoIT notes the bill would give OBAE administrative authority over \$100 million currently held in the Connect New Mexico fund. DoIT explains the legislation will improve the state’s capacity to issue broadband grants and deploy infrastructure in a timely manner.

OTHER SIGNIFICANT ISSUES

Article 9, Section 14 of the Constitution of the State of New Mexico, often referred to as the anti-donation clause, states “neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation.” To ensure broadband grants to private ISPs comply with the anti-donation clause, OBAE and the Connect New Mexico council will need to follow all relevant state procurement laws and ensure any RFPs and contracts executed under HB262/HGEICS/aHAFC do not constitute the donation of public funds to a private company. This may require that the state remain the indisputable owner of any broadband infrastructure installed by a private ISP.

RELATED BILLS

Related to SB280/SRCS/SFCS, Cybersecurity Act, which creates a Cybersecurity Office administratively attached to DoIT.

Related to HB388/HGEICS, Cybersecurity Fund, which creates a cybersecurity fund administered by the Cybersecurity Office or DoIT.

Related to HB401, Rename Technology for Education Act, which establishes the “Digital Equity in Education Act,” requiring PED to develop a methodology for distributions to school districts from the educational technology fund.

SOURCES OF INFORMATION

- LESC Files
- Department of Information Technology (DoIT)

TB/cf/msb